IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5975 OF 2005

Atiq Chiraguddin Khatib
and Anr. ...Applicants
Vs.
The State of Maharashtra ...Respondent

Ms R.D.Soni i/by M/s. Ram & Co., for the Applicants.
Ms M.M. Deshmukh, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 21, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants. This is an Application for Anticipatory Bail. The offence has been registered under sections 447, 379 and section 34 of the Indian Penal Code against the Applicant and other co-accused. The offence has been registered on 10th June, 2004.

2. On plain reading of the F.I.R., it appears that there is a dispute between the parties as regards immoveable property and in particular the dispute is regarding boundary. The allegation is that wire fencing which was errected by the complainant has been removed and stolen by the accused.

3. The learned A.P.P. submitted that clear case of commission of offence has been made out in the F.I.R. and hence, custodial interrogation is required.

4. As stated earlier, the offence appears to have been registered as a result of the property dispute between the parties. One of the dispute appears to be regarding to the boundary of the property. The offence has been registered on 10th June 2004. Considering the nature of accusation made in the F.I.R., this is not a case where custodial interrogation may be required. Morevoer, undue harrasment will be caused to the Applicants if they are subjected to arrest. Hence, I pass the following order:

: O R D E R :

i) In the event of the arrest of the Applicants in connection with C.R.No.78 of 2004 registered with Gangapur Police Station, District Nashik, the Applicants shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.7,500/- each with one or two sureties each in the like amount.

ii) The Bail is granted subject to condition that the Applicant will attend the concerned Police Station from 23rd September, 2005 till 29th September, 2005 between 05.00 p.m. to 07.00 p.m. on every day and will co-operate for investigation. Thereafter, the Applicants will attend the concerned Police Station as and when called upon to do so till the filing of the

chargesheet.

iii) The Bail is granted subject to condition that the Applicants shall not, direclty or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investiating Agency. The Applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till chargesheet is filed. Thereafter, they will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE